

The 3rd September, 1968

No. 8143-3-Lab-68/22424.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Chandigarh, in respect of the dispute between the workmen and the management of Chief Engineer (South), Punjab State Electricity Board, Patiala :—

BEFORE SHRI K.L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, CHANDIGARH

Reference No. 39 of 1967

between

THE WORKMEN AND THE MANAGEMENT OF CHIEF ENGINEER (SOUTH), PUNJAB STATE ELECTRICITY BOARD, PATIALA

Present :—

Shri D.C. Chadha and Shri H.K. Anand, Labour Welfare Officer, Haryana State Electricity Board, Chandigarh, for the management.

Shri Madusudan Saran for the workmen.

AWARD

Messrs Jagadhri Electric Supply and Industrial Company (P) Ltd., Jagadhri had a licence for the supply of electricity at Jagadhri. After the expiry of the period of licence the undertaking was taken over by the Punjab State Electricity Board on the night between 12th and 13th November, 1965. The workmen employed in the aforesaid company were paid retrenchment compensation, etc., by the said company in accordance with the provisions of Section 25FF of the Industrial Disputes Act, 1947. A few days before the 12th November, 1965, the Punjab State Electricity Board interviewed each of the workmen of the company with a view to find out whether he was suitable for appointment in the Board. Interviewing authority recorded notes with regard to each of the workmen and immediately on taking over of the aforesaid undertaking offers of appointments were given to each of the workmen in which detailed conditions of service were mentioned and in which the wages which the Board offered to each of them were also mentioned. In some of the other undertakings which had been similarly taken over by the Punjab State Electricity Board, some principles had been applied in fixing wages of the employees and those principles are mentioned in details in para 2 of Ex. R.95. Mr. A.D. Bajaj, Secretary, Finance in the Punjab State Electricity Board, however, did not agree that those principles could be rigidly applied to the present case. In para 3 of Ex. R.95 Mr. Bajaj said as under :—

“Keeping in view the principles decided at item 2 on prepage the basic pay of the staff of the Jagadhri Electric Supply and Industrial Company (P) Ltd., has been protected in such a way that the proposed pay plus dearness pay (on which the concessions mentioned above are also allowed) is not less than the basic pay they were drawing with the licensee”.

The suggestions made by Mr. Bajaj in R-95 were duly approved by the Board and wages were fixed in accordance with the same. As I have already stated above these wages were intimated to each of the workmen and the workmen did not raise any real protest against the same and by agreeing and continuing to work on the basis of the said wages under the conditions specified in the appointment letters, the workmen must be deemed to have accepted the said conditions unequivocally.

Later a trade union called The Jagadhri Electricity Supply Company Workers Union served a demand notice on the Punjab State Electricity Board inter-alia raising a demand that the total emoluments of the workmen which they were getting while in the service of the aforesaid company should not have been in any case reduced. They also raised a demand that some of the workers who had been put on lower jobs should have been provided with the same jobs which they were performing while in the service of the company. An individual demand with regard to one Ram Parshad Aggarwal was also raised. The demands having not been complied with and the conciliation proceedings with regard to them having presumably failed, the industrial dispute thus arising was referred to this Tribunal for adjudication under clause (d) of sub-section 1 of Section 10 of the Industrial Disputes Act, 1947,—*vide* Haryana Government notification No. 144-SF-III-Lab-67/5527, dated 9th March, 1967. It may be mentioned there that by reason of the re-organisation of Punjab two separate Boards had come into existence one of which is known as the Punjab State Electricity Board and other as the Haryana State Electricity Board. As Jagadhri is situated within the territories of Haryana and the dispute in question had arisen at Jagadhri the reference was made by the Haryana Government. In the notification the management was mentioned as Punjab State Electricity Board, Patiala, but by my order dated 10th October, 1967, I added the newly formed Punjab State Electricity Board and newly formed Haryana State Electricity Board also as parties to the reference and allowed both of them to have their complete say in the matter. Both the boards were represented before me through Shri D.C. Chadha and although most of the proceedings were conducted by the Haryana State Electricity Board, the representation of both the Boards continued throughout the proceedings.

Certain preliminary objections were taken by the management with regard to the validity of the reference and with regard to the liability of the aforesaid two newly formed Boards with regard to the relief which might ultimately be granted to the workmen. It is wholly unnecessary to go into the said preliminary objections because I am convinced that the workmen have no case on merits with regard to any of the three items of dispute. The said three items of dispute as mentioned in the reference are as under :—

- (1) Whether the emoluments of the workmen in the list enclosed as Annexure 'A' have been adversely affected with the taking over of the Jagadhri Electric Supply and Industrial Co., Jagadhri by the Punjab State Electricity Board, Patiala ? If so, to what relief the workmen are entitled ?

(2) Whether the degradation of the workmen shown in the inclosed list 'B' by the management of the Board is justified and in order ? If not, to what relief they are entitled ?

(3) Whether the Board be required to take over Shri Ram Parshad Aggarwal into their employment with continuity of service ? If so, with what details ?

Item No. 1. List Annexure 'A' to the reference shows that in the case of most of the workmen their total emoluments have decreased to some extent as compared with what they were getting from the company. It is, however, not denied that the emoluments which they are now getting are completely in accordance with the offers of appointments made by the Board and that they are also in accordance with the emoluments which similar categories of other workmen in this Board are getting. Their main case is that the Board must be treated as a successor in interest of the Jagadhri Electric Supply and Industrial Company Private Ltd., and must be as such be compelled to pay the same emoluments which the aforesaid company was paying. While calculating the said emoluments the workmen have claimed the house-rent which the company was paying and various other amenities which the company was providing. It is not denied by the workmen that the basic wages which they were getting have been kept intact and that they have merely been divided into two parts namely (1) pay and (2) dearness pay. It is also not denied that the workmen are getting the dearness allowance according to the Schedule fixed by the Board for all their workmen. It is also not denied by the workmen that they are getting all other amenities which the other workmen working in the Board are getting. The plea that the Board is a successor in interest of the company is to my mind ill-conceived. The undertaking has been taken over by the Government through the Electricity Board under the provisions of Indian Electricity Act and therefore by operation of law. In the circumstances of this case it is difficult to hold that the Board is in any way successor in interest to the original company. Even assuming that the Board is a successor in interest there is nothing in law to compel the Board to pay the same emoluments to the workmen as the company was paying. The workmen got the retrenchment compensation etc. under Section 25 FF. On the basis that their services had come to an end and that they had been duly retrenched. Their appointments in the Board on the morning of the 13th November, 1965 must be deemed to be afresh appointments and it was so expressly provided in the appointment letters which were issued to each of the workmen and which the workmen must be deemed to have accepted individually at least by their conduct in taking over service on the basis of the said letters and then in continuing in the said service. Their Lordships of the Supreme Court examined a similar point in Anakapali Co-operative Agriculture and Industrial Society and its workmen and Others (1962 II-LJ-621). The last portion of the head note sums up the judgement on this point and reads as under :

"Further the provisions of section 25H of the Industrial Disputes Act would not apply to termination of services of the employees as a result of transfer of business. On a construction of Section 25F.F. itself it is difficult to equate the termination of services with which it deals, with retrenchment covered by Section 25F. It could not be contended that general principles underlying Section 25H of the Act would apply to such a claim for re-employment in view of the identity of the undertaking. The double benefit in the form of payment of compensation and immediate re-employment cannot be said to be based on any considerations of fair-play or justice. Fairplay and justice obviously mean fairplay and social justice to both the parties. It would not be fair that the vendor should pay compensation to his employees on the ground that the transfer brings about the termination of their services, and the vendee should be asked to take them back on the ground that the principles of social justice require him to do so. The purpose of payment of retrenchment compensation is to give partial protection to workmen who are thrown out of employment for no fault of their own to tide over the period of unemployment. Therefore, if the transferor is by statute required to pay retrenchment compensation to his workmen, it would be anomalous to suggest that the workmen who received compensation are entitled to claim immediate re-employment in the concern at the hands of the transferee. The contention that in cases of this kind the workmen must get retrenchment compensation and re-employment almost simultaneously is inconsistent with the very basis of the concept of retrenchment compensation."

The claim of the workmen covered by item No. 1 of the dispute is, therefore, untenable and is accordingly dismissed.

Item No. 2. The claim of the workmen is that some of them have not been given the same position on their re-appointment in the Board as was held by them in the Jagadhri Electric Supply and Industrial Company (P) Ltd. As I have already said above, responsible officers of the Board interviewed each of the workmen and recorded copious notes about each in Exhibit R. 95. These notes were later approved by the Board with certain modifications. Their entire proceedings starting with the interview of the workmen and ending with the final decision of the Board appointing the workmen on different positions would clearly show that the qualifications of every workman were properly considered by the Officers of the Board and the positions which were offered to them were proper. They had been offered after a good deal of deliberation and consideration. It may be that similar jobs were not available in the Board or that on merits certain workmen did not deserve that said jobs. If certain people were wholly unqualified to hold the jobs which they were previously holding, the Board could not be compelled to offer the said jobs to them. It was for each workman to see whether or not he should accept the fresh appointment in the Board on the terms and conditions offered to him and if the workman in question willingly accepted the said offer he cannot now turn round and say that he should have been provided with a better job. The demand in question has no merits and is, therefore, dismissed.

Item No. 3. Ram Parshad Aggarwal mentioned in the third item of dispute was a switch board attendant while he was in the service of the original company. In the interview he was found to be unfit for that job and was, therefore, offered the job of an Assistant Lineman. He refused to accept the offer and refused to work. He has appeared in the witness box in the present case as A.W. 7 and has stated as under :—

"At the time the undertaking was taken by the Government I was drawing a salary of Rs. 190 per month. When the company was taken over by the Electricity Department I was given the designation of a cooly (Assistant Lineman). I protested against the designation but I was told they would later correct it. I worked thereafter as a switch board attendant but my designation continued to be the same. There is a register in which entries were made by me as a Switch Board Attendant. I was again asked to work as a cooly and I refused to do it. I was thereafter turned out on that basis."

In cross-examination he stated :

"I did not leave of my own accord. I was turned out. Gordhan Lal, Line Superintendent turned me out."

In the original demand notice which gave rise to the present reference, it was stated in para 5 as under :—
 "Shri Ram Parshad Aggarwal, son of Shri Biroo Ram who was switch Board Attendant but was actually working as Mechanic, fitter, oil engine driver and was drawing Rs. 190 per month from the management prior to taking over has been offered a job as Assistant Line-man (equal to cooly) in the concern taken over by you and thus reduced his wages too, has declined to accept the job. On account of injustice done to him, he also taken up in the employment and be compensated with the amount of loss causes to him for this illegal, unjust and wrong attitude of the officers compelling him to decline the job hitting his status and monitory gains."

In the statement of claims which the union filed during this reference a similar plea was taken with regard to Ram Parshad Aggarwal. In his evidence Ram Parshad Aggarwal has tried to improve his case by saying that he was turned out of the job forcibly by some officer of the Board. His evidence is clearly contrary to the pleadings in this demand notice and in the statement of claims and I refuse to believe his evidence. It appears that during his interview he was not found fit to work as a switch board attendant. In R-95 he is mentioned at No. 114 and there is a note of the Engineer against him that he should be taken only as an oiler or a cleaner or assistant line-man. Obviously he was being appointed afresh by the Board and it was for the Board to decide on which post and what terms he should be appointed. If the terms of the Board did not suit him he was within his right not to accept the job. He could not compel the Board to give him the same job which he was previously occupying or to give them the same terms and conditions on which he was previously serving in the company. The demand covered by item No. 3 is in my opinion totally ill-conceived and has not been substantiated. For the reasons given above the said demand is dismissed.

No order as to costs.

K. L. GOSAIN,
 Presiding Officer,
 Industrial Tribunal, Haryana,
 Chandigarh.

Dated the 19th August, 1968.

No. 1033 dated, Chandigarh, the 28th August, 1968.

The award be submitted to the Secretary to Government Haryana, Labour and Employment Department, Chandigarh, as required by Section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,
 Presiding Officer,
 Industrial Tribunal, Haryana,
 Chandigarh.

R. I. N. AHOOJA, Secy.

AGRICULTURE DEPARTMENT

The 30th August, 1968

No. 7877-Agr.I(I)-68/21587.—The Governor of Haryana is pleased to appoint, by direct recruitment, Shri Ram Swaroop Singh, temporarily to the post of Statistical Officer, in HAS Class II, in the scale of Rs. 250—25—550/25—750, with effect from the 6th July, 1968 (forenoon).

(Sd.) . . . ,

Financial Commissioner, Revenue Haryana.

The 3rd September, 1968

No. 8547-Agr.I(I)-68/21910.—The Governor of Haryana is pleased to promote the following Agricultural Inspectors to H. A. S. Class II, in purely stop-gap arrangement for a period of six months or till the posts are filled up on regular basis, whichever is earlier from the dates shown against their names. The promotion is subject to the condition that it will not, in any way, affect adversely the right of the persons senior to them :—

Serial No.	Name	Post in H. A. S. Class II	Date of assuming charge
1	Shri Harbans Lal Kumar	District Agricultural Officer, Ambala	11th July, 1968 (forenoon)
2	Shri Maheshwar Nath Raheja	District Agricultural Officer, Hissar	17th July, 1968 (forenoon)
3	Shri Prithvi Singh	District Agricultural Officer, Narnaul	15th July, 1968 (forenoon)

(Sd.) . . . ,

Financial Commissioner,
 and Secretary Revenue, and Agriculture
 Department, Haryana,

(MARKET COMMITTEES)

The 28th August, 1968

No. 6723-Agr.I (VII)-68/21442.—In exercise of the powers conferred by section 5 of the Punjab Agricultural Produce Markets Act, 1961, and all other powers enabling him in this behalf, the Governor

of Haryana is pleased to declare his intention of exercising control on the purchase, sale, storage and processing of Agricultural produce as specified in the schedule to the said Act in the area specified in column 2 of the schedule given below by including them in the notified market area of Market Committee specified in column 6 thereof.

2. This declaration is published for the information of persons likely to be affected thereby and will be taken into consideration by the Government on or after the expiry of thirty days from the date of its publication in the official Gazette, together with any objection or suggestion which may be received by the Secretary, State Agricultural Marketing Board, Chandigarh, in respect of declaration within the period so specified.

SCHEDULE

Serial No.	Name of Village/ Villages	B. B. No.	Tehsil	District	Name of Market Committee under which the area is to be included
1	2	3	4	5	6
1.	Dobhata	145	Sonepat	Rohtak	Ganaur
2.	Bhadi	146	"	"	"
3.	Rolad Latifpur	147	"	"	"
4.	Chitya Dewa	153	"	"	"
5.	Dodwa	148	"	"	"
6.	Rahmana	154	"	"	"
7.	Dabarpur	156	"	"	"
8.	Sitaoli	155	"	"	"
9.	Purkhas Rathi	158	"	"	"
10.	Purkhas Dhiran	159	"	"	"
11.	Kailana	143	"	"	"
12.	Moi	144	"	"	"
13.	Udeshipur	163	"	"	"
14.	Panchijatan	164	"	"	"
15.	Agwanpur	160	"	"	"
16.	Bharait	162	"	"	"
17.	Bhogipur	161	"	"	"
18.	Rajlu	103	"	"	"
19.	Bhuri	96	"	"	"
20.	Thaya	169	"	"	"
21.	Kami	95	"	"	"
22.	Lalheri	102	"	"	"
23.	Rajpur	97	"	"	"
24.	Bhegan	98	"	"	"
25.	Larsauli	101	"	"	"
26.	Korar Ibrahimpur	92	"	"	"
27.	Pipli Khera	5	"	"	"
28.	Dhaturi	100	"	"	"
29.	Husanpur	99	"	"	"
30.	Malikpur	13	"	"	"
31.	Memarpur	12	"	"	"
32.	Ramnagar	6	"	"	"
33.	Rasulpur	11	"	"	"